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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/598,367

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John Wentworth Bucknell

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EXAMINER

FERGUSON, MICHAEL P

ART UNIT

PAPER NUMBER

3679

MAIL DATE

DELIVERY MODE

01/03/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/598,367	Applicant(s) BUCKNELL, JOHN WENTWORTH	
	Examiner MICHAEL P. FERGUSON	Art Unit 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 5,6 and 10-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>08/25/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species 1, Figures 1 and 2, claims 1-4 and 7-9, in the reply filed on December 17, 2010 is acknowledged.
2. Claims 5, 6 and 10-15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on December 17, 2010.

Information Disclosure Statement

3. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Specification

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.

Art Unit: 3679

- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Claim Objections

4. Claim 1 is objected to because of the following informalities:

In claim 1 (line 3) "end surface" should recite --end surface; --.

In claim 1 (line 4) "recess" should recite --recess; --.

In claim 1 (line 5) "member and" should recite --member; and--.

For the purpose of examining the application, it is assumed that appropriate correction has been made.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3679

6. Claims 1-3, 8 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites "in which the connector element is a bolt or a stud". Claim 1 (lines 1-2), from which claim 2 depends, recites "An hydraulically assisted fastener comprising: a body with a central bore to engage a connector element". It is unclear as to whether the connector element has been positively claimed as an element of the claimed invention within such claims, or whether such connector element has only been recited as intended use. Accordingly, one is unable to properly determine the metes and bounds of such claims. Claim 3 depends from claim 2 and is likewise rejected as being indefinite.

Regarding claims 8 and 9, the phrases "like" and "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipate by Bucknell (US 5,730,569).

As to claim 1, Bucknell discloses an hydraulically assisted fastener comprising:

a body **11** with a central bore **18** to engage a connector element **B** and with an annular recess **15** opening outwards to an end surface;
an annular thrust member **12** which fits into and seals the annular recess;
an annular chamber defined by the recess and the thrust member; and
a charging medium which is injected into the chamber **13** under pressure and which moves the body relative to the thrust member to tension the connector element and which sets in the chamber to maintain the tension in the connector element (Figures 1-4B,18).

As to claim 2, Bucknell discloses a fastener in which the connector element **B** is a bolt or a stud (Figure 18).

As to claim 3, Bucknell discloses a fastener in which the body **11** is a nut which screws onto the bolt **B** or stud and the thrust member **12** is a washer with a plain bore (Figure 18).

As to claim 4, Bucknell discloses a fastener in which the recess **15** extends inwards to the bore **18** and the chamber is defined by the recess, the thrust member and the connector element **B** (Figure 18).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3679

10. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bucknell in view of Bunyan (US 3,462,180).

As to claims 7 and 8, Bucknell discloses a fastener in which the charging medium is a viscous fluid, instead of a viscous paste which cures to become solid comprising suspended solids in a self setting compound or particulate solids which behave as fluid media, or in which the charging medium is a solid.

Bunyan teaches a fastener wherein a charging medium is a viscous paste which cures to become solid comprising suspended solids in a self setting compound or particulate solids which behave as fluid media, a solid, or a viscous fluid; viscous paste, solids and viscous fluids each providing a means for applying fluid pressure to a trust member (Figure 3; column 1 lines 54-69, column 2 lines 35-57). Inasmuch as the references disclose viscous pastes, solids and viscous fluids as art recognized functional equivalents for applying fluid pressure to a trust member, it would have been obvious to one of ordinary skill in the exercise art to substitute one for the other. In re Fout, 675 F.2d 297, 301, 213 USPQ 532, 536 (CCPA 1982).

11. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bucknell in view of Imai et al. (US 7,008,156).

As to claim 9, Bucknell discloses a fastener wherein the charging medium is viscous fluid, instead of a particulate solid of a granular nature.

Imai et al. teach a fastener wherein a charging medium is a particulate solid of a granular nature or a viscous fluid; granular particulate solids and viscous fluids both providing a means for applying fluid pressure to a trust member (Figure 2; column 9

Art Unit: 3679

lines 30-34). Inasmuch as the references disclose granular particulate solids and viscous fluids as art recognized functional equivalents for applying fluid pressure to a trust member, it would have been obvious to one of ordinary skill in the exercise art to substitute one for the other. In re Fout, 675 F.2d 297, 301, 213 USPQ 532, 536 (CCPA 1982).

Conclusion

The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure. The following patents show the state of the art with respect to hydraulically assisted fasteners:

Kamppila (US 7,195,439), Percival-Smith (US 5,468,106), Pappas (US 3,424,080), Rowlands et al. (US 5,339,693) and Aims (US 837,767) are cited for pertaining to fasteners comprising a body with a central bore engaging a connector element, a thrust member, a chamber and a charging medium.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL P. FERGUSON whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (6:30am-3:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3679

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MPF
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/Michael P. Ferguson/
Primary Examiner, Art Unit 3679